

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

**Firearms Technology Criminal Branch
Report of Technical Examination**



244 Needy Road #1600
Martinsburg, WV 25405

Phone: 304-616-4300
Fax: 304-616-4301

To:

Special Agent Jason Dykes
Bureau of Alcohol, Tobacco, Firearms and Explosives
2365 Century Parkway NE
Suite 400
Atlanta, GA 30345

UI#: 760525-23-0016

RE: HOLDER, Roykell

FTCB#: 2023-534-ALC
325372

Date Exhibit Received: 3/1/2023

Type of Examination Requested:

Delivered By: FedEx 7713 8553 3510

Examination, Test, Classification

Exhibit:

1. Diamondback Firearms, LLC, model DB9R, 9x19mm caliber firearm, bearing serial number DB9M02752 (suspected short-barreled rifle).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 C.F.R. 0.130 the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act).

Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms and Ammunition Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act and the National Firearms Act.

The Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines “firearm” to include: “...*(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or silencer; or (D) any destructive device.* Such term does not include an antique firearm.”

The GCA, 18 U.S.C. § 921(a)(7), defines “rifle” as: “*a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.*”

Additionally, the GCA, 18 U.S.C. § 921(a)(8), defines “short-barreled rifle” to mean: “... *a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.*”

Special Agent Jason Dykes

760525-23-0016
2023-534-ALC
Page 2

The National Firearms Act of 1934 (NFA), 26 U.S.C. § 5845(a), defines “firearm” to include: “... (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in 18 U.S.C. § 921); and (8) a destructive device. The term “firearm” shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the... [Attorney General]... finds by reason of the date of its manufacture, value, design and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.”

Further, the NFA, 26 U.S.C. § 5842, “Identification of firearms,” states: “... (a) Identification of firearms other than destructive devices. - Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the ... [Attorney General]... may by regulations prescribe. (b) Firearms without serial number. - Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the ... [Attorney General]... and any other information the... [latter]... may by regulations prescribe.”

Findings:

Exhibit 1 is a 9x19mm caliber rifle, utilizing a receiver manufactured by Diamondback CNC, LLC, in Cocoa, Florida, and subsequently marketed by Diamondback Firearms, LLC, in Cocoa, Florida, and one Glock brand magazine. As received, the Exhibit is equipped with a weapon mounted light, angled foregrip, red-dot sight, folding stock adaptor, and a shoulder stock. The Exhibit is approximately 21.25 inches in overall length and contains a rifled barrel with a length of approximately 4.5 inches (see attached pictures).

I measured the overall length of Exhibit 1 by removing the muzzle device and handguard and placing the Exhibit on a flat surface and measuring the distance between the extreme ends along a line parallel to the center line of the bore. Additionally, I measured the barrel of Exhibit 1 by placing the Exhibit on a flat surface with the bolt closed. I then inserted a cylindrical scale into the muzzle of the barrel until it touched the bolt face.

During my examination, I observed the following markings on Exhibit 1:

Left side of receiver:

- 
- SAFE FIRE

Special Agent Jason Dykes

760525-23-0016
2023-534-ALC
Page 3Right side of receiver:

- DIAMONDBACK FIREARMS, LLC
- COCOA, FL USA
- PATENT PENDING
- SAFE FIRE
- 
- CAL. MULTI
- DB9R
- DB9M02752 [Serial number]

Barrel:

- 9X19

My initial examination of Exhibit 1 revealed that it field-tested as a semiautomatic firearm only. I separated the upper assembly from the receiver to further examine the Exhibit and noted that the Exhibit had been assembled utilizing standard semiautomatic AR15-type fire control parts. I observed no overt modifications to the fire control group of the Exhibit.

I test-fired Exhibit 1 on March 3, 2023, at the ATF test range, Martinsburg, West Virginia, using commercially available, Federal brand, 9x19mm caliber ammunition and the supplied magazine. I inserted a one-round ammunition load and pulled the trigger. The Exhibit failed to fire the ammunition. I removed the magazine and cleared the round from the chamber to inspect it and noted that there was not a firing pin strike on the primer of the cartridge. I then loaded another one-round ammunition load and pulled the trigger. The same failure to fire malfunction occurred. I again removed the magazine and cleared the round from the chamber to inspect it and noted that there was not a firing pin strike on the primer of the cartridge.

I then removed the bolt from the Exhibit to inspect it and noted that the Exhibit was missing the firing pin and firing pin return spring.

To demonstrate that Exhibit 1 could be easily returned to a firing condition and expel a projectile by the action of an explosive, I utilized the firing pin and firing pin return spring from a Colt model SMG from the ATF National Firearms Collection (NFC). I installed these into Exhibit 1 in less than two minutes utilizing a common pin punch.

I test-fired Exhibit 1, with the NFC firing pin and firing pin return spring on March 3, 2023, at the ATF test range, Martinsburg, West Virginia, using the same commercially available, Federal brand, 9x19mm caliber ammunition and the supplied magazine. I inserted a one-round ammunition load and pulled the trigger. Exhibit 1 successfully expelled a projectile by the action of an explosive. I then inserted a two-round load and pulled the trigger; the Exhibit fired each round with a separate function of the trigger. I repeated this two-round method of test fire one additional time, achieving the same result. Lastly, I inserted a five-round ammunition load and pulled the trigger. Exhibit 1 fired each round with a separate function of the trigger. I repeated this five-round method of test-fire two additional times, achieving the same results.

Special Agent Jason Dykes

760525-23-0016
2023-534-ALC
Page 4

As received, Exhibit 1 is a weapon designed, made, and intended to be fired from the shoulder and designed and made to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger; therefore, Exhibit 1 is a *rifle* as defined. Exhibit 1, being a rifle having a barrel of less than 16 inches in length, is a *short-barreled rifle* as defined.

Conclusions:

Exhibit 1 is a weapon which, as received, is designed to expel a projectile by the action of an explosive and contains the receiver of such a weapon; therefore, Exhibit 1 is a “**firearm**” as defined in 18 U.S.C. § 921(a)(3)(A) and (B).

Exhibit 1, being a rifle having a barrel of less than 16 inches in length, is a “**short-barreled rifle**” as defined in 18 U.S.C. § 921(a)(8).

Exhibit 1, being a rifle having a barrel of less than 16 inches in length, is a “**firearm**” as defined in 26 U.S.C. § 5845(a)(3).

Exhibit 1 bears no NFA manufacturer’s marks of identification as required by 26 U.S.C. § 5842.

Examined by:

ANTHONY CIRAVOLO Digitally signed by
ANTHONY CIRAVOLO
Date: 2023.03.03
14:19:46 -05'00'

Anthony L. Ciravolo
Firearms Enforcement Officer

Approved By:

CODY TOY

Cody Toy
Chief, Firearms Technology Criminal Branch

Digitally signed by
CODY TOY
Date: 2023.03.03
14:37:05 -05'00'

Attachment: Ten pages bearing photographs.

This Firearms Technology Criminal Branch report is provided in response to your request for assistance. Please be aware that these documents may constitute “taxpayer return information” that is subject to the strict disclosure limitations provided in 26 U.S.C. § 6103. Exceptions to the non-disclosure provisions that permit the disclosure internally within ATF are set forth in 26 U.S.C. §§ 6103(h)(2)(C) and (o)(1). Any further disclosure of these reports is strictly limited and must be reviewed and approved by the Office of Chief Counsel prior to any information dissemination. Failure to adhere to the disclosure limitations provided in 26 U.S.C. § 6103 could result in civil and/or criminal liability.

760525-23-0016 Exhibit 1



P40

760525-23-0016 Exhibit 1

760525-23-0016

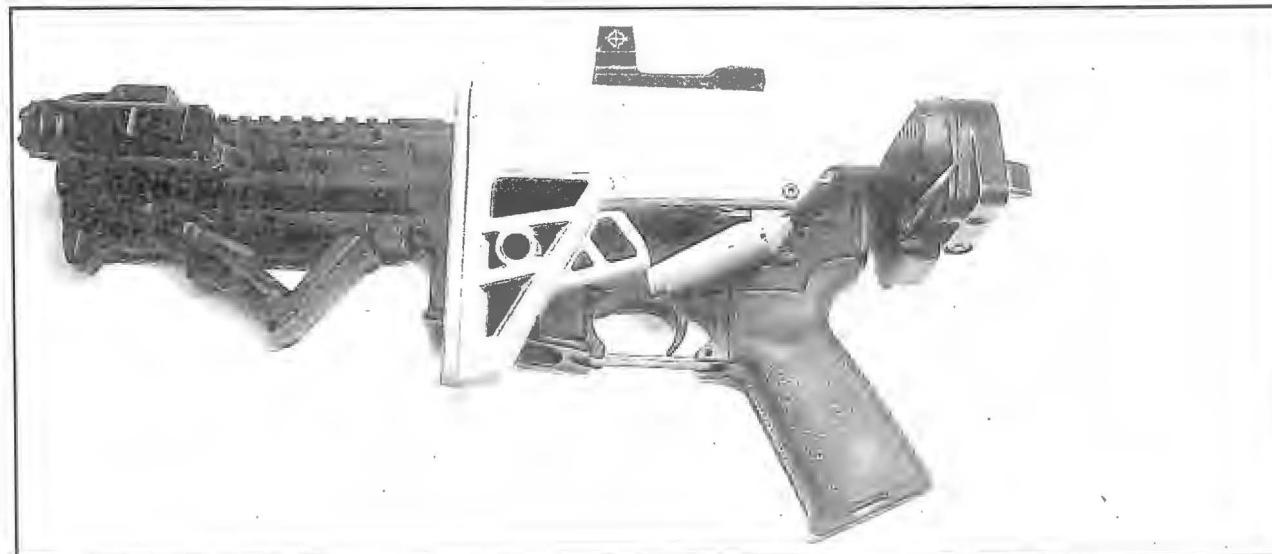
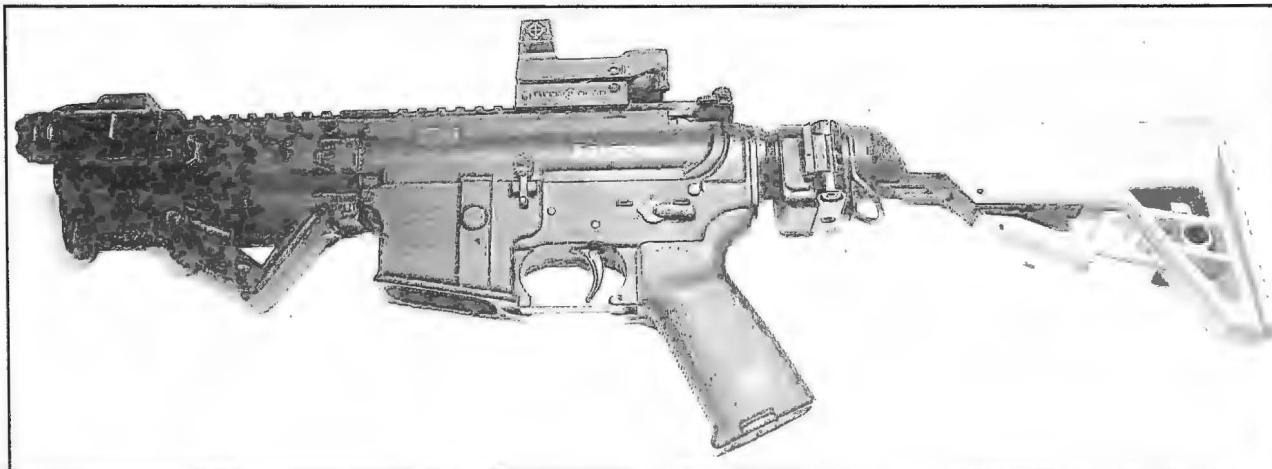
2023-534-ALC

Page 2



Exhibit 1 Folding Stock Adaptor

760525-23-0016
2023-534-ALC
Page 3



760525-23-0016
2023-534-ALC
Page 4

Exhibit 1 Markings

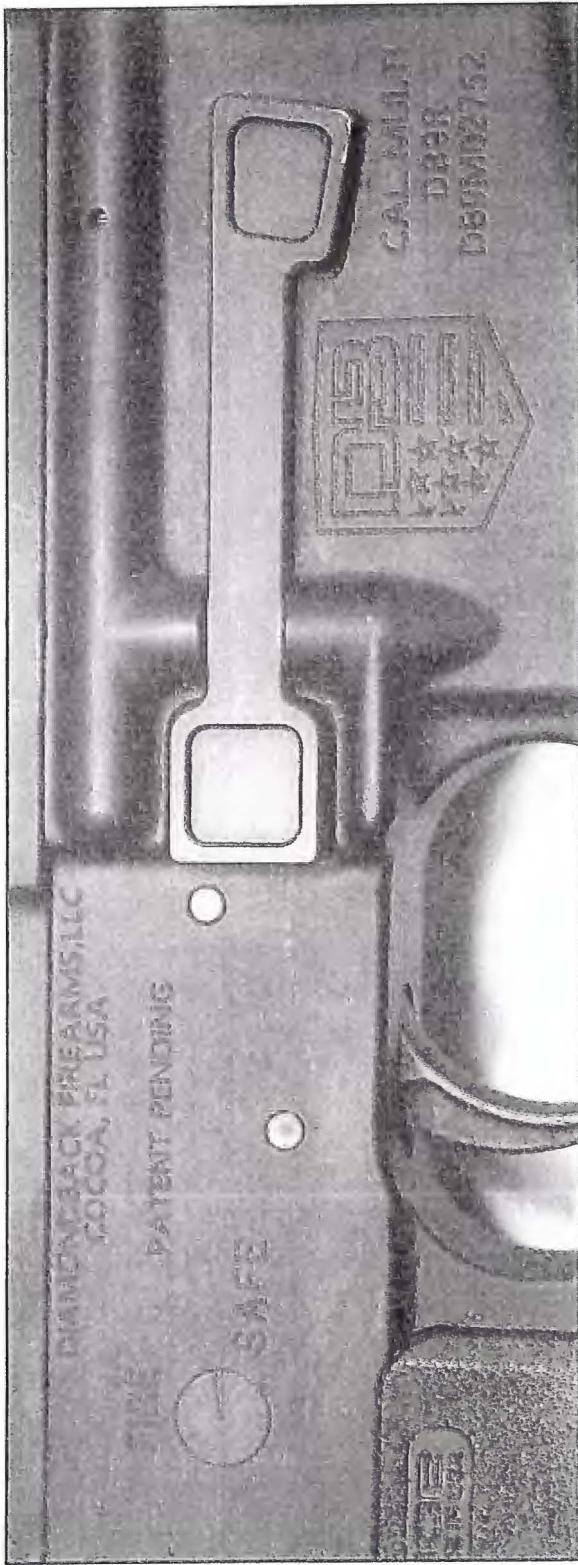
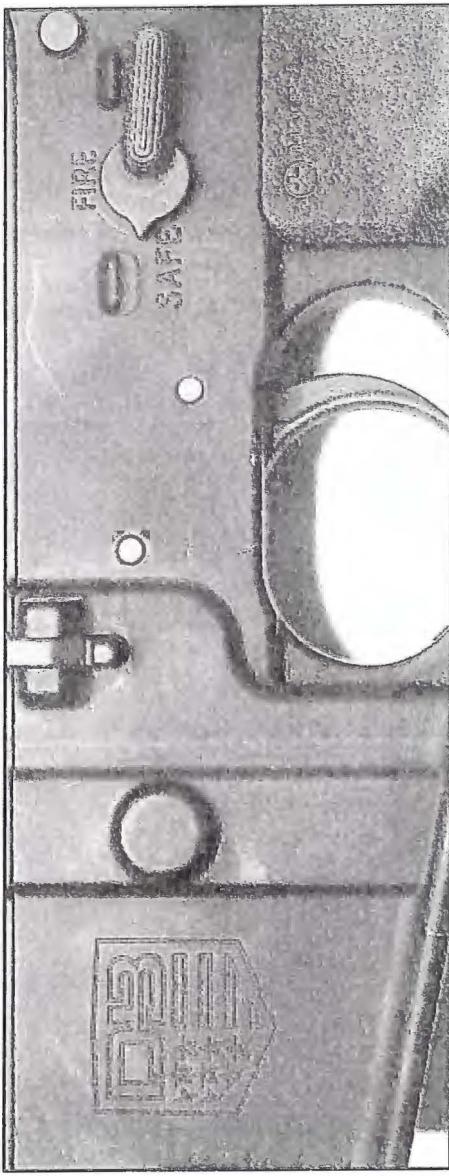
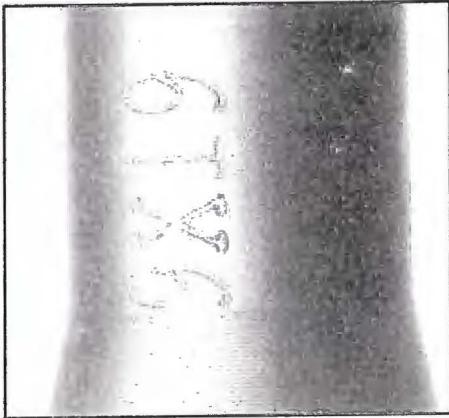


Exhibit 1 Measurements

760525-23-0016
2023-534-ALC
Page 5



Exhibit 1 Fire Control Group

760525-23-0016
2023-534-ALC
Page 6

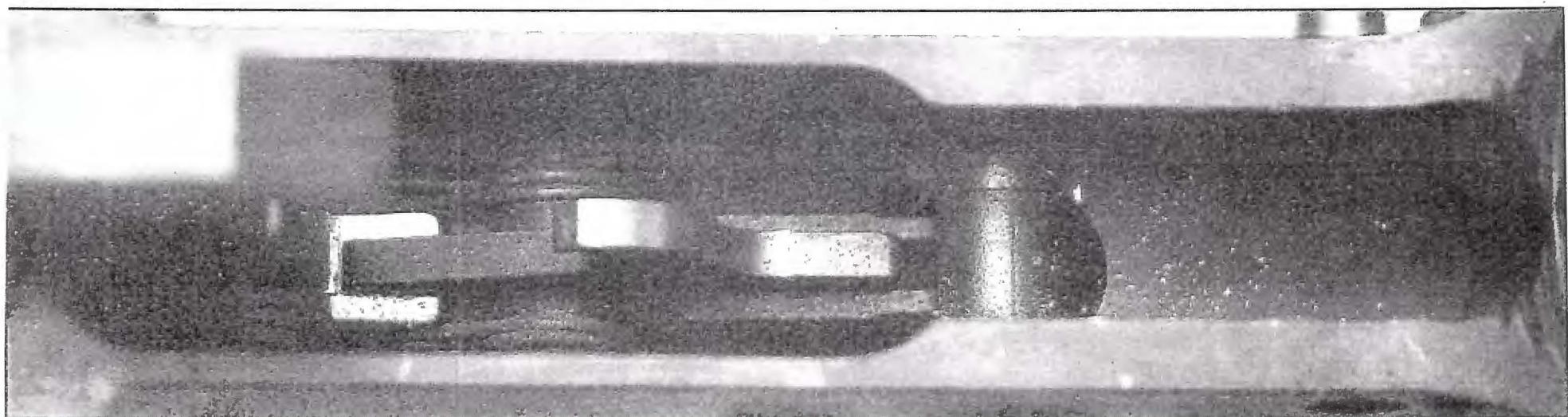
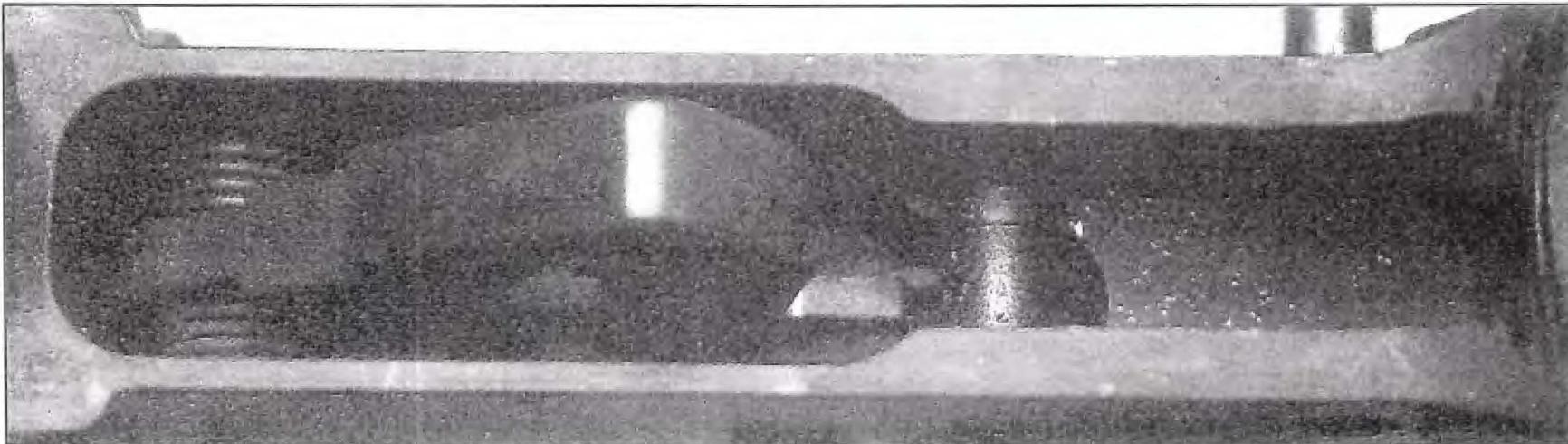


Exhibit 1 Bolt Showing Missing Firing Pin

760525-23-0016
2023-534-ALC
Page 7

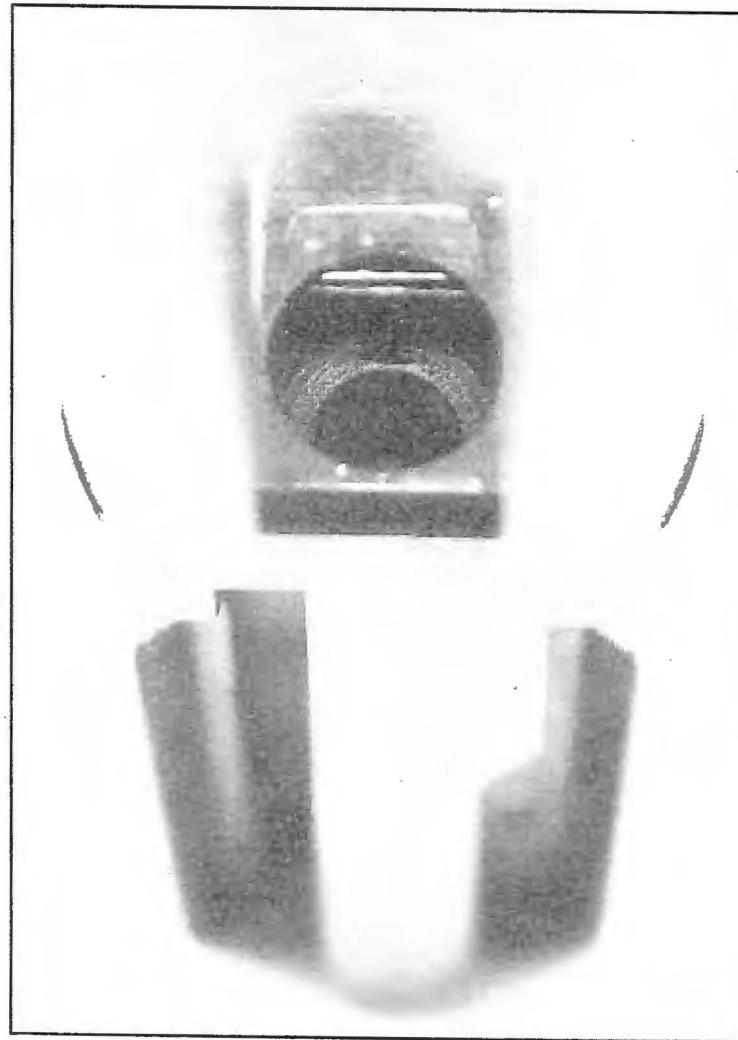


Exhibit 1 Bolt (top) Compared to
Colt SMG Bolt (bottom) from ATF NFC

760525-23-0016
2023-534-ALC
Page 8

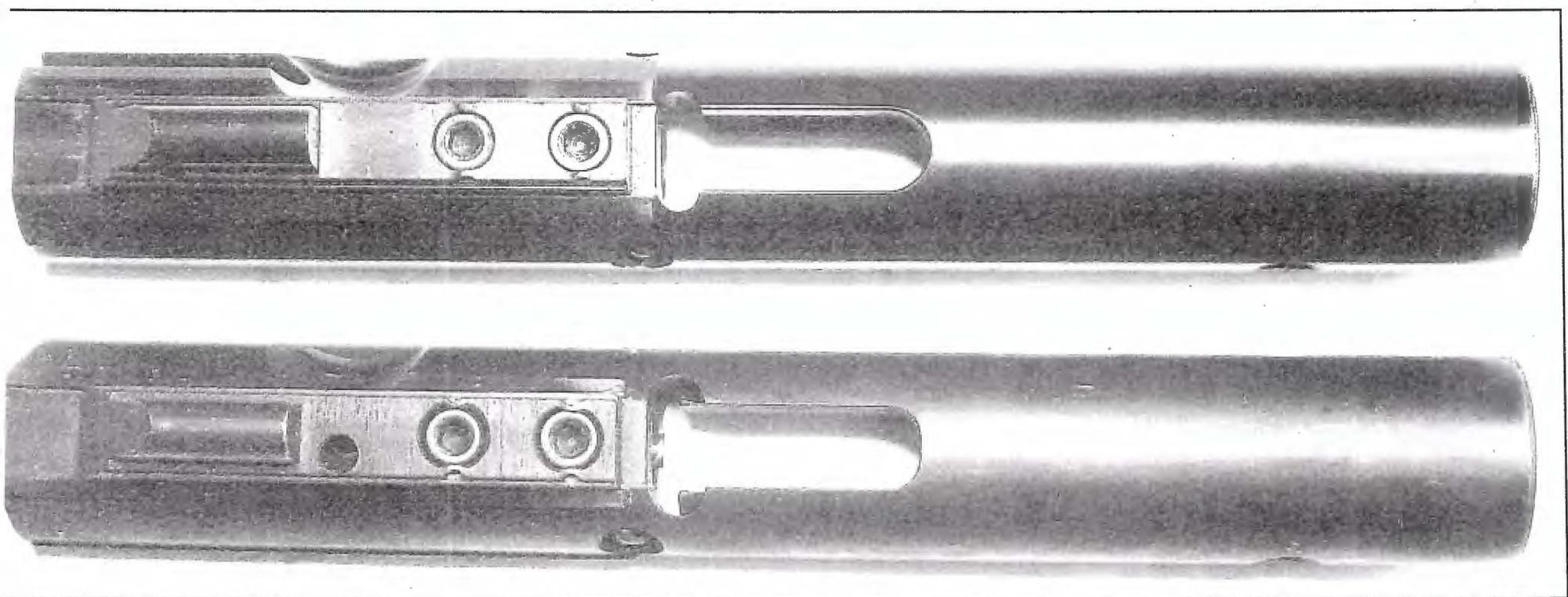


Exhibit 1 Bolt with
Colt SMG Firing Pin and Spring from ATF NFC

760525-23-0016
2023-534-ALC
Page 9

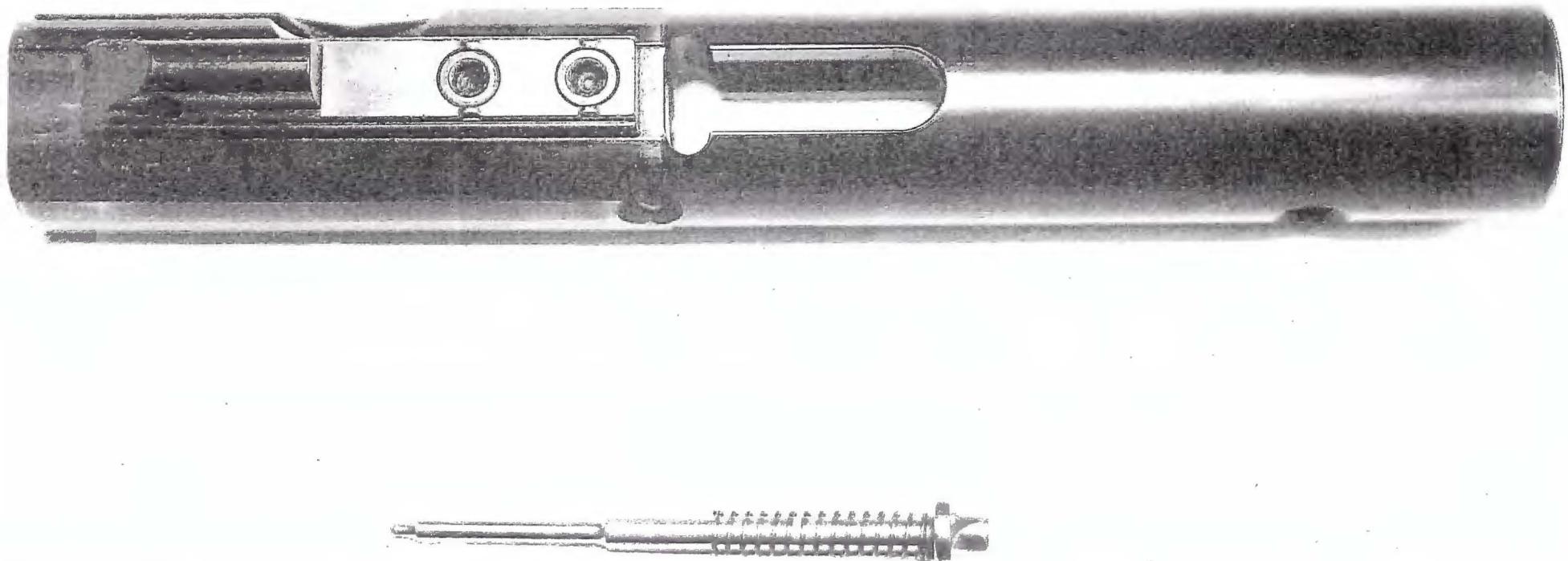


Exhibit 1 Bolt with Colt SMG Firing Pin
and Spring from ATF NFC Installed

760525-23-0016
2023-534-ALC
Page 10

